IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 3221 of 2005

Between:

N.Adi Reddy, S/o.Sri N.Malla Reddy,
R/o.Narayanapur Village, Gangadhara Mandal,
Karimnagar District.

..... PETITIONER

AND

1 The Joint Collector, Karimnagar, Karimnagar District.
2 The Mandal Revenue officer, Gangadhara Mandal, Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more especially one in the nature of writ of mandamus setting aside the proceedings No.B/367/2004, dated 15-02-2005 issued by the 2nd respondent as arbitrary, illegal, and unconstitutional.

Counsel for the Petitioner: MR.N.MUKUNDA REDDY

Counsel for the Respondent Nos. 1 and 2: GP FOR REVENUE

This Court at the admission stage made the following :

O R D E R:

This writ petition is filed seeking a writ of Mandamus to declare the proceedings dated 15-02-2005 issued by the second respondent as illegal and arbitrary, and to set aside the said proceedings.

Earlier, the petitioner filed W.P.No.1554 of 2005 challenging the show cause notice dated 24-01-2005 issued under Section 7 of the Andhra Pradesh Land Encroachment Act, 1905 (hereinafter referred to as 'the Act'). The said writ petition was disposed of with a direction to the respondent to consider the explanation of the petitioner and to pass appropriate orders in accordance with law. In pursuance thereof, the impugned proceedings have been passed by the second respondent observing that on the basis of the office records it was found that there was no show cause notice served on the petitioner under Section 7 of the Act, however in compliance with the orders in W.P.No.1554 of 2004 the explanation has been considered and it is found not tenable. The said proceedings are under challenge in this writ petition.

The petitioner states that he has already filed an Appeal against the order of the 2nd respondent dated 15-02-2005 and the same is pending before the first respondent, however since the officer is not available, he could not pursue the same and in the meanwhile there is immediate threat of dispossession on the basis of the impugned order dated 15-02-2005. Hence, this writ petition.

As can be seen, even according to the second respondent, no proceedings were initiated against the petitioner for eviction. At any rate, since the petitioner apprehends dispossession from the land in question where he is running a small business and particularly keeping in view that the Appeal is pending before the 1st respondent, I deem it appropriate to dispose of the writ petition with a direction to the first respondent to dispose of the appeal pending on his file within a period of three months from the date of receipt of this order. Till such time, the respondents are directed not to dispossess the petitioner from the land in question in pursuance of the impugned order dated 15-02-2005.

The writ petition is accordingly disposed of. No costs.

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(**G. ROHINI, J**)

Date: 02-03-2005

Note:

Issue operative portion by wire at party's costs.

B/o

ghn

To

1 The Joint Collector, Karimnagar, Karimnagar District.

2 The Mandal Revenue officer, Gangadhara Mandal, Karimnagar District.

3 Two CCs to the Government Pleader for Revenue, High Court of A.P., Hyderabad. (O.U.T.)

4 Two CD copies.

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.3221 OF 2005

OPERATIVE PORTION (BY WIRE):

The writ petition is accordingly disposed of granting leave and liberty to the petitioner to initiate fresh proceedings in case need arises. However, it is made clear that in case the petitioner is in possession of the land in question, he shall not be disposed without following due process of law. No costs.

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(**G. ROHINI, J**)

Date: 02-03-2005

Note:

Issue wire at party's costs.

Please send the bundle to the Court Masters Section after dispatch of the wire order.

B/o

ghn